

CHAPTER NO. 450

SENATE BILL NO. 1272

By Springer

Substituted for: House Bill No. 757

By Head, Buck, Curtiss, Ronnie Davis, Roach, Cooper

AN ACT To amend Tennessee Code Annotated, Title 4, Title 7, Title 42, Title 54, Title 55, Title 65, and Title 67, relative to transportation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 7-56-211, is amended by deleting subsection (b) in its entirety and by substituting instead the following:

(b) Notwithstanding any provision of the law to the contrary, all contracts of the authority to perform maintenance or improvements on railroads which are funded, in whole or in part, with funds administered by the Tennessee Department of Transportation shall be awarded pursuant to competitive bidding requirements as approved by the Department of Transportation.

(c) In the alternative to subsection (b), the authority may negotiate non-bridge, labor portion of rehabilitation contracts with the railroad company that provides rail service on the facilities to be improved by the authority. Such negotiated labor costs shall reflect the average unit costs to perform typical functions associated with rail rehabilitation work and shall be subject to audit by the Comptroller of the Treasury. It is the intent of the General Assembly that labor and associated costs shall be reimbursable pursuant to this provision. All other costs of rehabilitation contracts, including but not limited to materials and equipment, shall be subject to competitive bidding requirements as approved by the Department of Transportation to insure that said contracts are performed on a break-even basis and that the state does not reimburse the profits to the railroad company.

SECTION 2. Tennessee Code Annotated, Title 65, Chapter 11, is amended by adding the following language as a new, appropriately designated section:

Section 65-11-___. (a) Notwithstanding any provision of the law to the contrary, all contracts to perform maintenance or improvements on railroads which are funded, in whole or in part, with funds administered by the Tennessee Department of Transportation shall be awarded pursuant to competitive bidding requirements as approved by said Department of Transportation. This section shall not apply to rail crossings to be signalized following a fatality pursuant to Tennessee Code Annotated, Section 65-11-113.

(b) In the alternative to subsection (a), all contracts to perform maintenance or improvements on railroads with collective bargaining labor agreements shall allow negotiated labor costs for the labor portion of said contracts. It is the intent of the General Assembly that only labor and associated costs shall be reimbursable pursuant to this provision. All other costs associated with said contract, including but not limited to materials and equipment, shall be subject to competitive bidding requirements as approved by the Department of Transportation. All costs associated with said contracts shall be subject to audit

by the Comptroller of the Treasury to insure that said contracts are performed on a break-even basis and that the state does not reimburse profits to the railroad company involved.

SECTION 3. Tennessee Code Annotated, Section 55-8-183, is amended by designating the existing language subsection (a) and by inserting the following language as new subsections:

(b) Motorcycle escorts of properly identified funeral processions may:

(1) Notwithstanding § 55-8-182(c) or any other provision of law to the contrary, operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles;

(2) Notwithstanding § 55-9-201 or any other provision of law to the contrary, install a bell, siren, or exhaust whistle of a type approved by the sheriff of the county in which the motorcycle is to be operated; provided, that such system is deactivated at all times the motorcycle is not escorting a properly identified funeral procession; and

(3) Notwithstanding § 55-9-402 or any other provision of law to the contrary, install a clear strobe flashing light system of a type approved by the sheriff of the county in which the motorcycle is to be operated; provided, that such system is deactivated at all times the motorcycle is not escorting a properly identified funeral procession; and

(c) The provisions of subsection (b) shall only apply to any county having a population of not less than thirty-seven thousand five hundred (37,500) nor more than thirty-seven thousand eight hundred (37,800) according to the 1990 federal census or any subsequent federal census.

SECTION 4. Tennessee Code Annotated, Title 54, Chapter 5, Part 1, is amended by adding the following language as a new, appropriately designated section:

Section 54-5-1___. Notwithstanding any rule, regulation or provision of law to the contrary, a city, county or metropolitan "welcome" sign erected on a state right-of-way prior to February 14, 1994, shall not be required to be removed, relocated or dismantled by the Department of Transportation. Nothing in this section shall be construed to preclude a city, county or metropolitan government from entering into an agreement with the department to remove, relocate or dismantle a "welcome" sign.

SECTION 5. Tennessee Code Annotated, Section 54-5-804(a), is amended by adding the following subdivision:

(3) The commissioner is authorized and required to reimburse utilities owned by business organizations that are chartered as not-for-profit where said utility has a customer base of five hundred (500) or less and those utilities owned by local governments where said utility has a customer base of five hundred (500) or less for all reasonable costs associated with utility relocations necessitated by construction on state highways. The utility shall certify to the commissioner, subject to review of the Comptroller of the Treasury, the number of customers for each utility described above.

SECTION 6. Tennessee Code Annotated, Section 67-3-2001, is amended by deleting the existing subdivisions 67-3-2001(j)(2)-(5) and by substituting instead the following:

(2) The utility management review board shall review applications for utility relocation loans. Only applicants which meet all of the following criteria may be recommended to the State Funding Board for loans:

(A) Are obligated to relocate, move or re-install its utilities due to a state highway project;

(B) Have been otherwise unable to obtain financing for such relocation at a reasonable cost on reasonable terms;

(C) Have established fees and charges for services of the utility to be effective immediately or over time sufficient to provide assurance of financial stability, and to agree to adjust such fees and charges periodically to insure timely payment of loan payments and costs of operation of the system;

(D) Have covenanted to take such actions necessary to be able to pay when due all loan payments.

(3) As part of its recommendation, the utility management review board shall recommend an estimated amount of the loan and an interest rate for the loan, utilizing an economic index based upon factors which include, but are not limited to, per capita incomes and property values of the applicant. Applicants falling within the lower economic scale on the index shall be eligible for lower interest rates. Loans may be recommended at no interest for terms of five (5) years or less. In determining its recommendations, the board may use any index or regulations promulgated pursuant to Section 68-221-1005(b).

(4) The State Funding Board is empowered to make and administer loans from the funds and may establish such terms as it determines to be appropriate to carry out the terms of this act, subject to the following:

(A) Loans shall be for a term of fifteen (15) years or less, not to exceed the useful life of the relocated utilities, with no prepayment penalties.

(B) Loans shall be subject to such other terms, not inconsistent with the foregoing, as the board determines to be appropriate.

(C) Prior to the start of each fiscal year, the Secretary of the State Funding Board shall certify to the Commissioner of Finance and Administration and the Commissioner of Transportation, the uncommitted balance in the loan program as of the start of the next fiscal year. For the fiscal year beginning July 1, 1999, through the fiscal year beginning July 1, 2002, additional funding in an amount not to exceed one million dollars (\$1,000,000) per year may be accumulated and set apart within the state highway fund as may be necessary to bring the uncommitted loan program into balance as of each July 1, as

may be required when the loan program balance falls to \$100,000.

(5) The provisions of this act shall not be construed to be an appropriation of funds and no funds shall be obligated or expended pursuant to this act unless such funds are specifically appropriated through the Department of Transportation or as a specific amendment by the General Appropriations Act.

SECTION 7. Sections 1 and 2 of this act shall take effect July 1, 2000, the public welfare requiring it. Sections 3 through 6 of this act shall take effect upon becoming law, the public welfare requiring it.

PASSED: May 28, 1999


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 17th day of June 1999


DON SUNDQUIST, GOVERNOR